IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 623 of 1983

HONOURABLE MR.JUSTICE KS JHAVERI

==========

BAI MARIYAM ALI SEIKH & 4 - Appellant(s)
Versus
HARIJAN KESHU RAMA & 1 - Defendant(s)

==========

Appearance :
MR MM TIRMIZI for Appellant(s)
MR PV NANAVATI for Defendant(s) : 1,
None for Defendant(s) : 2,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 26/07/2006

ORAL JUDGMENT

1. This appeal is at the instance of the original claimants for enhancement of the compensation as awarded by the Motor Accident Claims Tribunal (Main), Rajkot by judgement and award dated 7th August 1981 in Claim Case No.232 of 1980 wherein the claimants were awarded a sum of Rs.37100/-.

2. The case of the claimants was that Ali Gani was travelling on a motor cycle and when he was near Vansavad, the motor cycle slipped as a result of which Ali Gani and the pillion rider fell down and sustained injuries. Ultimately Ali Gani died on

15.12.1978. His legal heirs have therefore filed the aforesaid claim petition.

3. Mr. Tirmizi, learned Advocate for the appellant submitted that the Tribunal has committed an error in holding that the income of the deceased was Rs.300/- per month and the Tribunal ought to have taken the income of the deceased at Rs.450/-. He submitted that the Tribunal ought to have fixed the dependency benefit at Rs.250/- and multiplier should have been 20. He also submitted that the conventional amount should be Rs.15000/- instead of Rs.5000/-.

4. As a result of hearing and perusal of the record it is found that the deceased was driving the motor cycle at a speed of 40 to 45 kilometers even when there was a sharp curve. He was therefore negligent. The Tribunal has considered the wages of different category and found that the deceased must have been getting maximum Rs.300/- per month. Learned Advocate for the appellant is not able to point out anything to show that the income of the deceased was more than Rs.300/-. I am of the view that even the dependency benefit taken at Rs.150/- is just and proper. The deceased Ali Gani was 30 years old and therefore, it cannot be said that the multiplier of 17 is on the lower side. Looking to the medical treatment, the amount warded Rs.1500/- also appears to be reasonable.

5. Nothing is pointed out to show that the amount

awarded by the Tribunal is on the lower side which requires to be enhanced. Hence this appeal is dismissed. No order as to costs.

[K.S. JHAVERI, J.]

ar